

CONTRACT #5
RFS # 339.17-96010
GU # 0925855

**Mental Health & Developmental
Disabilities, Memphis Mental
Health Institute**

VENDOR:
**Shelby County Healthcare
Corp. d.b.a. The Regional
Medical Center at Memphis
(The MED)**



STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
MEMPHIS MENTAL HEALTH INSTITUTE

P. O. Box 40966
951 COURT AVENUE
MEMPHIS, TENNESSEE 38174-0966

FISCAL SERVICES

MEMORANDUM

RECEIVED

MAR 24 2009

FISCAL REVIEW

TO: Fiscal Review Committee
TDMHDD

FROM: Linda C. White
Fiscal Director 339.17

DATE: March 16, 2009

SUBJECT: THE REGIONAL MEDICAL CTR-GU09-25855-00 AMENDMENT FY2010

Memphis Mental Health Institute (339.17) is requesting an amendment to the food services contract with The Regional Medical Center (The MED), GU09-25855-00, for FY2010 in the amount of an additional \$473,121.00. This is the same amount of the current contract.

Our estimates show that we should be able to cover the 4% increase to only three of the items in the rate section of C.3., Payment Methodology. These services are essential to daily operations of the hospital in servicing our service recipients.

The new facility was designed with the intent that it would contract with the MED for the provision of food services. MMHI is physically attached to the MED to allow for efficient and effective delivery of physical and mental health services, including food services, benefiting both facilities. Acquiring daily operational services (food services) from the MED will likely result in a cost savings for the State. This part of daily operations must continue without interruption in services especially since the building was not designed to allow for food preparation and service in the facility.

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Linda C. White	*Contact Phone:	901-577-1821		
*Contract Number:	GU-0925855	*RFS Number:	339.17-960		
*Original Contract Begin Date:	7/1/2008	*Current End Date:	6/30/2009		
Current Request Amendment Number: <i>(if applicable)</i>		1			
Proposed Amendment Effective Date: <i>(if applicable)</i>		7/1/2009			
*Department Submitting:		TDMHDD			
*Division:		Memphis Mental Health Institute			
*Date Submitted:		3/11/2009			
*Submitted Within Sixty (60) days:		Yes			
<i>If not, explain:</i>					
*Contract Vendor Name:		Shelby County Healthcare Corp d/b/a/ The Regional Medical Ctr at Memphis (a/k/a The MED)			
*Current Maximum Liability:		\$473,121.00			
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY:2009	FY:	FY:	FY:	FY	FY
\$473,121.00	\$	\$	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>					
FY:2009	FY:	FY:	FY:	FY	FY
\$189,490.92	\$	\$	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			It is expected that almost all of the total contract allocation will be spent in the remaining 5 months in FY2009. The rate of monthly spending has averaged over \$35,000.		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:					
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:					
*Contract Funding Source/Amount:	State:		Federal:		
Interdepartmental:			Other:	\$473,121.00	

Supplemental Documentation Required for
Fiscal Review Committee

If "other" please define:		Current Service funds received from Patient billings paid by Insurance or TennCare.	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
N/A, no other amendments			
Method of Original Award: <i>(if applicable)</i>		Non-Competitive	

S064 STARS 03/11/09
DOCUMENT FILE 14:14

DIRECT ACCESS:

FUNCTION: I (I, N), F1-HELP, F2-RETURN TO MENU, F4-END DIRECT ACCESS

DEPT: 339 DIV: 17 FFY: 09 FUND: 11 DOC NO: GU0925855 00 GL ACCT: 0450
PERIOD SELECTION: CMB (CMB PMB PY)

DESCRIPTION: 070108 FOOD & NUTRITION SRVCS
COST CENTER: 20720 OBJ: 083 AGY OBJ: 999 SRC: AGY SRC:
ORG CODE: 20 70 72 PROJECT: LOCATION:
PGM CODE: 001 017 GRANT: SUB ACCT:
VENDOR NO: V621113169 07 VENDOR NAME: REGIONAL MEDICAL CENTER

DATE SEGMENT DOCUMENT AMT: 473,121.00
CREATE: 111408 ADJUSTMENTS: .00
LAST PROC: 012609 LIQUIDATIONS: 189,490.92-

CLOSE: RECEIPT/BYMT 189,490.92

DUE: RETENTION: .00

DOCUMENT: 063009

BALANCE 283,630.08

Z06 SUCCESSFUL RECALL

Z41 ENTER INQUIRY DATA

NON-COMPETITIVE AMENDMENT REQUEST:**APPROVED****Commissioner of Finance & Administration**

1) RFS #	33917-96010		
2) Procuring Agency :	TDMHDD-MEMPHIS MENTAL HEALTH INSTITUTE		
EXISTING CONTRACT INFORMATION			
3) Service Caption :	FOOD SERVICE		
4) Contractor :	Shelby County Healthcare Corporation d/b/a The Regional Medical Center at Memphis (a/k/a The MED)		
5) Contract #	GU0925855-00		
6) Contract Start Date :	July 1, 2008		
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	June 30, 2009		
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$ 473,121		
PROPOSED AMENDMENT INFORMATION			
9) Amendment #	1		
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	July 1, 2009		
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	June 30, 2010		
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$ 946,242		
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service		
14) Description of the Proposed Amendment Effects & Any Additional Service :			
<p>MMHI is requesting an amendment to the present food service contract with the MED with a 4% increase on four (4) of the service description items in the current contract listed in section C. 3 for FY2010. The projected expenditure for CY2009 is expected to be 5% less than the budget amount. Since the 4% increase does not effect all the food items, the overall contract amount does not have to be increased.</p>			
15) Explanation of Need for the Proposed Amendment :			
<p>The new facility was designed with the intent that it would contract with the MED for the provision of food services. MMHI is physically attached to the MED to allow for efficient and effective delivery of physical and mental health services, including food services, benefiting both facilities. Acquiring daily operational services (food services) from the MED will likely result in a cost savings for the State even with the 4% increase.</p>			
16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)			
<p>The Regional Medical Center at Memphis d/b/a the MED, 877 Jefferson Avenue, Memphis, TN 38103, owned by Shelby County Government and operated through its agent, the Shelby County Healthcare Corporation.</p>			

17) Office for Information Resources Endorsement: (required for information technology service; n/a to THDA)

Documentation is ... ☒ Not Applicable to this Request ☐ Attached to this Request

18) eHealth Initiative Endorsement: (required for health-related professional, pharmaceutical, laboratory, or imaging service)

Documentation is ... ☒ Not Applicable to this Request ☐ Attached to this Request

19) Department of Human Resources Endorsement: (required for state employees training service)

Documentation is ... ☒ Not Applicable to this Request ☐ Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives

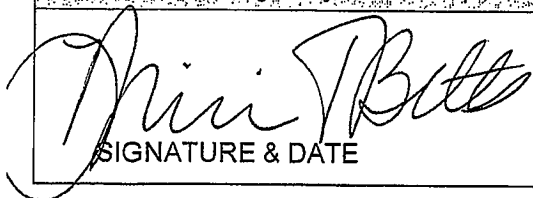
The MMHI facility was designed with the intent that it contract with the MED for the provision of food services. See paragraph 15 above regarding the intent of the parties.

21) Justification for the Proposed Non-Competitive Amendment:

The new facility was designed with the intent that it would contract with the MED for the provision of food services. MMHI is physically attached to the MED to allow for efficient and effective delivery of physical and mental health services, including food services, benefiting both facilities. Acquiring daily operational services (food services) from the MED will likely result in a cost savings for the State. The parties of the MMHI construction project evidenced their intent that the MED and MMHI would contract these services as stated in the term sheet which was provided as a part of the original non competitive contract request. (attached)

AGENCY HEAD SIGNATURE & DATE:

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)


SIGNATURE & DATE

3/20/09

C O N T R A C T A M E N D M E N T C O V E R

RFS Tracking #			Edison Contract ID #			Amendment #		
33917- 96010			GU-0925855			01		
Amendment Purpose					Delegated Authority Requisition ID # (ONLY if applicable)			
Amendment #1 for the food & nutrition services								
Contractor/Grantee					Contractor/Grantee FEIN or SSN			
Shelby County Healthcare Corporation d/b/a The Regional Medical Center at Memphis (a/k/a The MED)					<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V-			
Begin Date		End Date		Subrecipient or Vendor		CFDA #(s)		
7/1/2008		6/30/2010		<input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Vendor				
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount			
2009				\$473,121.00	\$473,121.00			
2010				\$473,121.00	\$473,121.00			
TOTAL:					\$946,242.00			
— COMPLETE FOR AMENDMENTS —					Procuring Agency Contact & Telephone #			
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Linda C. White (901) 577-1821					
2009	\$473,121.00		Procuring Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.)					
2010		\$473,121.00						
			Gene Wood (615) 532-6676					
			Speed Code		Account Code			
TOTAL:	\$473,121.00	\$473,121.00			20720/083999			
— OCR Use —			Procurement Process Summary (FA or ED-type only)					

**AMENDMENT ONE
TO GU09-25855-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Memphis Mental Health Institute, hereinafter referred to as the "State" and Shelby County Healthcare Corporation, DBA The Regional Medical Center at Memphis, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:
 - B.1. This Contract shall be effective for the period commencing on July 1, 2008 and ending on June 30, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Hundred Forty Six Thousand Two Hundred Forty Two Dollars (\$946,242). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. The text of Contract Section C.3. is deleted in its entirety and replaced with the following:

- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
 - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
Cost of Meals per Resident Day (see Section A.2.e.)	\$20.25 per resident per day for the first fifty (50) patients \$12.73 per resident day for additional patients exceeding fifty (50) patients

Catering Services per Person (see Section A.2.o., Section A.2.p., and Attachment 03)	
Admission's Office Boxed Lunch Meal	\$2.60 per person
Hot Meal Plate	\$9.95 per person
Cold Meal Plate	\$8.25 per person
Birthday/Special Occasion Cake	\$1.56 per person
Punch	\$0.90 per person
Danish/Muffin Tray	\$1.50 per person
Cheese/Cracker Tray	\$2.75 per person
Cookie/Brownie Tray	\$1.75 per person
Fruit/Vegetable Tray	\$3.50 per person

- c. The cost for all catering services shall be based on a per person cost and include the cost for providing beverages (except punch), condiments, paper and plastic supplies, and labor.
- d. The Admission's Office boxed lunch meal shall be prepared according to the regular diet guidelines.
- e. The hot meal plate shall include a meat, two (2) vegetables, bread, drink, and dessert. For the hot meal plate, the Contractor shall offer a choice of three (3) different menu options at one price point. (Attachment 03)
- f. The cold meal plate shall include a meat sandwich, vegetables, chips, drink, and dessert. For the cold meal plate, the Contractor shall offer a choice of three (3) different menu options at one price point. (Attachment 03)
- g. For both hot and cold meal plates, a vegetarian option shall be available.
- h. Each birthday/special occasion cake shall yield thirty (30) portions.
- i. Arrangements for all catering services shall be agreed to in writing by both parties prior to preparation.

The revisions set forth herein shall be effective July 1, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

SHELBY COUNTY HEALTHCARE CORPORATION DBA THE REGIONAL MEDICAL CENTER AT
MEMPHIS:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES:

VIRGINIA TROTTER BETTS, MSN, JD, RN, FAAN,
COMMISSIONER

DATE

APPROVED:

M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

DEBORAH E. STORY, COMMISSIONER
DEPARTMENT OF HUMAN RESOURCES

DATE

JUSTIN P. WILSON
COMPTROLLER OF THE TREASURY

DATE

REQUEST: NON-COMPETITIVE CONTRACT

Revised request to match
FRC recommendation

CY08
#717

8-6-08

APPROVED see attached FRC recommendation

MD Goeth

Commissioner of Finance & Administration

Date:

JUL 03 2008

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	839.17-960
2) State Agency Name :	TDMHDD-MEMPHIS MENTAL HEALTH INSTITUTE
3) Service Caption :	Food Service
4) Proposed Contractor :	Shelby County Healthcare Corporation d/b/a The Regional Medical Center at Memphis (a/k/a The MED)
5) Contract Start Date : (attached explanation required if date is < 60 days after F&A receipt)	July 1, 2008
6) Contract End Date IF all Options to Extend the Contract are Exercised :	June 30, 2009
7) Total Maximum Cost IF all Options to Extend the Contract are Exercised :	\$473,121
8) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service
9) Description of Service to be Acquired :	<p>The service to be acquired pursuant to this request is food services for the newly constructed Memphis Mental Health Institute (MMHI), located at 951 Court Avenue, Memphis, TN. The features of the new construction required modification of the operational needs of MMHI, i.e., new MMHI building was not designed to allow for food preparation and service in the facility. Intent of all parties to the construction was that MMHI would contract with the MED, a free standing healthcare facility operated as a component unit of the Shelby County government, for the provision of food services. The MED has provided these food services to MMHI since October 1, 2007, contract Number: GU08-22699.00.</p>
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service :	<p>The project for the new MMHI facility at 951 Court Avenue, Memphis, TN, provided a means for the State government to partner with local governmental and private agencies as well as other state agencies for the provision of healthcare services in Shelby County and West Tennessee. This was a first-of-its-kind project, involving the State Departments of Finance and Administration, Mental Health and Developmental Disabilities, University of Tennessee, Shelby County Mayor and Council and the MED and Methodist Hospital. To effectuate the desired partnership between the various groups, a Term Sheet was drawn up setting forth the intent of the parties. A signed copy of this Term Sheet is attached. All parties to the Term Sheet understood that the new MMHI would be built adjacent to the MED, with a physical connection between the two healthcare facilities, so as to provide both efficient and effective physical and mental healthcare to the patients. This physical connection between the MED and MMHI meant that MMHI was designed without a means of providing food services, i.e., the design of the new building requires different specifications that are not available under the present contract such as thermal heating trays and food delivery. All parties to the Term Sheet intended that MMHI and the MED would contract for the provision of food services and other ancillary services, as needed. See Paragraph 1 under The MED (2nd page) and Paragraph 9 (4th page) of the attached Term Sheet. In order to carry out the intent of the Term Sheet parties, MMHI is seeking</p>

JUL 03 2008

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approval for a non-competitive contract for Food Services. The MED is a component unit of the Shelby County Government and is operated by the Shelby County Healthcare Corporation. The Governmental Tort Liability act has been extended to cover the MED and its operations.

11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method It Used :

In the past this service was bought through a non-competitive process.

12) Name & Address of the Proposed Contractor's Principal Owner(s) :
(not required if proposed contractor is a state education institution)

The Regional Medical Center at Memphis d/b/a the MED, 877 Jefferson Avenue, Memphis, TN 38103, owned by Shelby County Government and operated through its agent, the Shelby County Healthcare Corporation.

13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service :

The MED has provided healthcare services (including food services to its patients) in Memphis, Tennessee since 1829.

14) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

15) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

16) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The MMHI facility was designed with the intent that it contract with the MED for the provision of food services. See paragraph 10 above regarding the intent of the parties to the Term Sheet (attached).

18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process :
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

The new facility was designed with the intent that it would contract with the MED for the provision of food services. MMHI is physically attached to the MED to allow for efficient and effective delivery of physical and mental health services, including food services, benefiting both facilities. Acquiring daily operational services (food services) from the MED will likely result in a cost savings for the State. The parties of the MMHI construction project evidenced their intent that the MED and MMHI contract v/a a Term Sheet which is attached.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR-- signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date

Tennessee Department of Mental Health & Developmental Disabilities
Memphis Mental Health Institute Facility
Term Sheet

In order to maintain state-operated inpatient psychiatric services in Shelby County and in consideration of the State's transfer of 6.1 acres (current site of the Memphis Mental Health Institute) to Methodist Healthcare, the State of Tennessee, Methodist Healthcare, Shelby County Healthcare Authority (The Regional Medical Center at Memphis) (hereinafter referred to as the MED) and Shelby County Government agree to the following terms:

Methodist Healthcare will:

1. Purchase the current MMHI property (6.1 acres at the corner of Poplar/Dunlap) for a sum of \$12.5 million. Title shall be transferred to Methodist or its designee and the \$12.5 million will be deposited in escrow for initial project costs concurrent with the securing of the long-term financing by UT, the execution of the long-term lease between TDMHDD and UT, and upon approval of the State Building Commission (SBC).
2. Provide \$300,000 previously pledged for construction financing.
3. Design and construct a new hospital on the Dobbs Building site and a portion of the Bowld Hospital site based upon specifications of TDMHDD including number of beds, total and specific area square footage, and treatment and program space utilizing the MTMHI prototype for standards and design specifications. Scope of project costs and activities include:
 - a. Design and construction will meet all applicable federal, state, and local codes, as well as requirements of JCAHO accreditation, CMS certification, and licensing agencies, the US Department of Justice program spaces desired, and the AIA standards for psychiatric hospitals.
 - b. Methodist Healthcare will obtain approval from the Tennessee State Building Commission (SBC), TDMHDD, F&A Office of Capital Projects Management, UT and the State Architect's Office for the design team chosen for the project; the Core Program for the facility; and all construction documents and major design changes during all phases of the project.
 - c. Methodist Healthcare will include representatives from TDMHDD, UT, and F&A in all construction progress meetings and grant them full access to the building site.
4. Methodist Healthcare will include the following items within its project cost estimations: site preparation, demolition of both the Bowld and Dobbs Buildings,

fixtures, furniture, equipment, architectural fees, and any other contingencies that may occur during the design/construction of this project.

5. Provide documents to TDMHDD, UT, and F&A as needed, for the Certificate of Need application.
6. Allow MMHI to continue occupancy of current hospital without rent while new facility is being constructed. Operation and maintenance will remain the sole responsibility of TDMHDD, along with the risk of loss.

University of Tennessee will:

1. Secure long-term financing for the balance of the project costs not covered by the \$12.5 million Methodist Healthcare payment.
2. Enter into a Development Agreement with Methodist Healthcare or its designee to construct the new MMHI facility.
3. Lease the completed facility to TDMHDD for MMHI at an amount amortized over a period of 20 years to retire remainder-debt from construction project.
4. Lease to TDMHDD at no cost the parking lot located at Court and Pauline. The lease shall be long term and shall include a 24-month termination clause should UT decide to terminate the lease. UT and TDMHDD will work in good faith to identify other available parking to meet TDMHDD's needs, if UT elects to terminate the lease.
5. Convey good, clear and marketable title to the facility and the property on which the facility is located to State/TDMHDD at the end of the lease period or upon the TDMHDD's payment of the balance of the indebtedness at any time during the term of the lease.

The Med will:

1. Provide support and ancillary services to MMHI to include food service, laboratory, pharmacy, radiology, laundry, and physical plant maintenance at rates mutually agreed on by both parties. Other support and ancillary services will be provided as agreed upon by the parties.
2. Enter into clinical affiliations with MMHI, including business associate agreements, in order to enhance the continuity of care for MMHI patients.
3. Continue to provide medical/surgical services to MMHI patients and bill third party payors for such services.

4. Pursue single licensing with MMHI at such time as the MED and TDMHDD both deem feasible and appropriate.
5. Allow the new MMHI hospital to physically connect to the MED for purposes of access for professional staff and patients. The cost for the connection will be included within the total construction costs for the project.
6. Provide \$800,000 towards the total cost of the demolition of the Bowld and Dobbs properties.

Shelby County Government will:

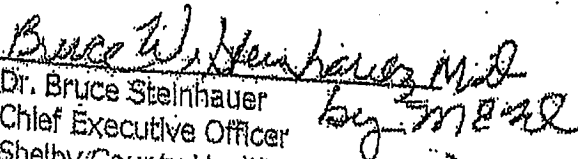
1. Subject to the approval of the Shelby County Board of Commissioners, convey good, clear and marketable title for those portions of the Bowld property at Court Street and the Dobbs property currently owned by the Shelby County Government to the State of Tennessee for an agreed upon sum of \$220,000.

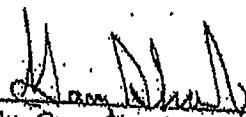
The State of Tennessee/TDMHDD will:

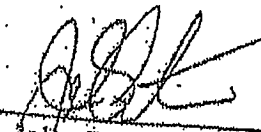
1. Upon approval of the SBC, convey good, clear and marketable title at the time of closing to 6.1 acres of TDMHDD land and improvements at corner of Poplar and Dunlap, Memphis, TN, to Methodist Healthcare for the price of \$12.5 million.
2. Work with Methodist architect on specifications documents in a timely manner for the building project utilizing the MTMHI as a design prototype and provide a space program that meets the needs of MMHI to include, but not be limited to, number of beds, square footage, and treatment and program space. TDMHDD, the State Architect's office, and F&A Capital Projects Management will provide timely approval of construction documents and any subsequent major design changes.
3. Assign a TDMHDD representative to work with Methodist Architect on the design and construction project.
4. TDMHDD/State will include the retirement of approximately \$1 million in bond indebtedness on the Dobbs building within the total project costs. The approximately \$1 million bond indebtedness will be paid in one or more payments as required by bond counsel.
5. TDMHDD will continue to make available to UT Health Sciences Center training/educational opportunities for its healthcare professionals in the psychiatric in-patient hospital constructed pursuant to this term sheet. TDMHDD/MMHI will work with the leadership of UT Health Sciences Center to foster training opportunities beneficial to the operation of the hospital as well as assist in the development of healthcare professionals for all Tennesseans.

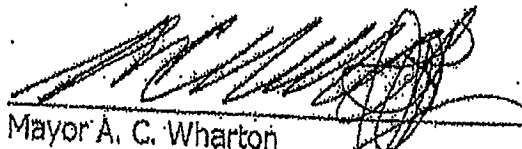
6. Lease the newly constructed facility from the University of Tennessee as the site for MMHI to provide state operated in-patient psychiatric services at an amount amortized over a period of 20 years to retire remainder debt from construction project. During the term of the lease, TDMHDD will be responsible for all operational and maintenance costs associated with the facility.
7. Take good, clear and marketable title to the facility and the property upon which it sits at the end of the lease period or at any time during the lease period upon TDMHDD's payment of the balance of indebtedness.
8. Enter into clinical affiliations with the MED, including business associate agreements, in order to enhance the continuity of care for MMHI patients.
9. Purchase medical/surgical, support, and clinical ancillary services from the MED to include, but not be limited to, food service, laboratory, pharmacy, radiology, laundry, and physical plant maintenance, at rates mutually agreed on by both parties. Other support and ancillary services will be provided as agreed upon by the parties.
10. Pursue single licensing with the MED at such time as TDMHDD and the MED both deem feasible and appropriate.
11. File the Certificate of Need application for this project with the Health Services and Development Agency in accordance with required procedures and time frames.

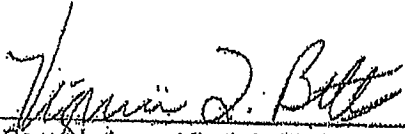
The parties understand that the terms set forth in this Term Sheet are not binding, are subject to the laws of the State of Tennessee, are subject to the parties' agreement regarding specifics of this transaction, and are contingent upon appropriate approvals from State officials, including but not limited to the State Building Commission, necessary or advisable legislation by the Tennessee General Assembly and approval of State bond counsel.


 Dr. Bruce Steinhauer
 Chief Executive Officer
 Shelby County Healthcare Authority/
 The Regional Medical Center at Memphis


 Mr. Gary Shorb
 President and Chief Executive Officer
 Methodist Healthcare


 Dr. John D. Petersen
 President, University of Tennessee


 Mayor A. C. Wharton
 Shelby County, Tennessee



Commissioner Virginia Trotter Betts
Tennessee Department of
Mental Health and Developmental
Disabilities



Commissioner Dave Goetz
Tennessee Department of Finance
and Administration



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North - 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman
Representatives

Curt Cobb
Curtis Johnson
Gerald McCormick
Mary Pruitt
Craig Fitzhugh, *ex officio*
Speaker Jimmy Naifeh, *ex officio*
Donna Rowland
David Shepard
Curry Todd
Eddie Yokley

Sen. Douglas Henry, Vice-Chairman
Senators

Doug Jackson
Bill Ketron
Paul Stanley
Randy McNally, *ex officio*
Lt. Governor Ron Ramsey, *ex officio*
Reginald Tate
Jamie Woodson

MEMORANDUM

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman, Fiscal Review Committee
Bill Ketron, Chairman, Contract Services Subcommittee *cc BK*

DATE: June 25, 2008

SUBJECT: Contract Comments
(Contract Services Subcommittee Meetings 6/24)

RFS# 339.17-960

Department: Mental Health and Developmental Disabilities

Contractor: Shelby County Healthcare Corp d.b.a. The Regional Medical Center at Memphis (The MED)

Summary: The proposed contract is for the provision of food services at the Memphis Mental Health Institute (MMHI). The one-year contract has a term beginning July 1, 2008, and ending June 30, 2009, with the option to extend in one-year increments for a total of five years.

Maximum liability: \$473,121

After review, the Fiscal Review Committee voted to recommend approval of the contract.

cc: The Honorable Virginia Betts, Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review

021908

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
MEMPHIS MENTAL HEALTH INSTITUTE
AND
SHELBY COUNTY HEALTHCARE CORPORATION,
DBA THE REGIONAL MEDICAL CENTER AT MEMPHIS**

This Contract, by and between the State of Tennessee, Department of Mental Health and Developmental Disabilities, Memphis Mental Health Institute, hereinafter referred to as the "State" and Shelby County Healthcare Corporation, DBA The Regional Medical Center at Memphis, hereinafter referred to as the "Contractor," is for the provision of Comprehensive Food Services, as further defined in the "SCOPE OF SERVICES."

Contractor Federal Employer Identification Number: 62-1113169-07

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

A.2. CONTRACTOR RESPONSIBILITIES

- a. The Contractor shall provide daily meal service to all service recipients, which includes at least three (3) meals and an evening snack per service recipient as planned by the Registered Dietitian. For service recipients with increased nutritional needs, additional food and snacks shall be provided, at no additional cost, as determined by the Registered Dietitian and ordered by the service recipient's Physician. The Contractor shall be responsible for all aspects of this comprehensive food service including, but not limited to providing adequate labor, snacks, storage, and equipment to fulfill the provisions of this Contract. Oral supplements and/or formulary products shall not be a part of this Contract.
- b. The Contractor shall develop a seasonal fourteen (14) day master menu incorporating food preferences from the State's service recipients. A written copy of the menu shall be provided to the State for final approval by a Registered Dietitian before implementation. Any changes or substitutions made by the Contractor shall be approved by the State. The master menu shall be revised as needed to provide a variety of meals to the State's service recipients.
- c. The Contractor shall provide to the State a "Nutritional Analysis Report" for each day of the seasonal menu cycle and any menu revisions. The nutrient content of the regular diet menu shall be approximately thirty (30) percent fat, between fifteen – twenty (15-20) percent protein, and between fifty – fifty five (50-55) percent carbohydrate.
- d. The Contractor shall prepare all types of food, snacks, and beverage products, including texture and ingredient modifications, and portion adjustments for all service recipients according to their Physician prescribed diet orders. The American Dietetic Association's Nutrition Care Manual, and/or On-line Manual, or a diet manual that has been approved by the facility's Medical Staff shall serve as the reference for all diets served to the service recipients. See **Attachment 01**, Diet List, which details the diet history.
- e. The Contractor shall be compensated for daily meal service to the facility's service recipients, which is described in Section A.2.a., and based on an actual count of the number of service recipients physically present on the nursing units at 12:00 A.M., which

is referred to as the "Resident Day" count (see Payment Methodology, Cost of Meals per Resident Day, Section C.3. and A.3.a.). All additional meals and snacks, as determined by the Registered Dietitian and ordered by the service recipient's Physician, shall be served at no extra cost to the State for service recipients who have been included in the "Resident Day" count. Additional meal trays sent because of Contractor error shall be served at no extra cost to the State. See **Attachment 02**, Facility Description and Census Statistics, which details the census history.

- f. The Contractor's Diet Office shall provide meal tray tickets as follows:
- (1) Meal tray ticket information shall be taken from each nursing unit's "Dietary Meal Census Sheet" and/or reported diet changes. (See A.3.b.)
 - (2) The "Dietary Meal Census Sheet" shall include the following: date, service recipient's name, identification number or date of birth, unit location, diet order, any food allergies, sensitivities, or intolerances, and any special food preferences or instructions.
 - (3) The meal tray tickets must be legibly written or computer generated. The meal tray tickets shall be individualized for each service recipient and include the service recipient's name, identification number or date of birth, date, unit location, diet order, any food allergies, sensitivities, or intolerances, and any special food preferences, instructions, or substitutions. When possible, service recipients' cultural, religious, and ethnic food preferences shall be honored, unless contraindicated. Snacks shall be distributed by MMHI Staff from bulk nourishments and shall be properly labeled with contents and a use-by-date. Snacks and other foods sent to MMHI need to be properly labeled. In addition, individual snacks ordered by the Physician or Registered Dietitian must be labeled specifically for the individual.
- g. The Contractor shall provide trained staff to check the accuracy of meal trays and all deliveries before delivery to the nursing units and facility events. The Contractor shall take appropriate action to correct any meal and/or snack food inaccuracies. Upon request, the Contractor shall provide the State a copy of their training schedule and any related information as it pertains to staff training or competency.
- h. The Contractor shall provide an induction type of meal tray system that meets the Department's and licensing agencies' rules for providing safe food. The tray system shall include an adequate number of trays and delivery carts with at least three (3) cabinet style tray delivery carts, one (1) for each nursing unit, with the capacity to hold the number of tray and food supply needs for each nursing unit.
- i. The Contractor shall provide all single-use, disposable items required for the meal tray system and provision of snacks, such as tray inserts, cups, napkins, computer labels, brown paper bags, and plastic ware.
- j. The Contractor shall develop production, delivery, pick-up, clean up, sanitation and service schedules for all food service areas in accordance with the State's food service needs, keep schedules on file, and provide these schedules to the State as requested. The Contractor shall deliver meals, snacks, and catering requests on a timely basis.
- k. The Contractor shall institute a "Hazard Analysis Critical Control Point (HACCP) Plan" for all areas of the food service operation, which includes the following areas: hazard analysis and risk assessment, determination of critical control points, specification for each critical control point, planned corrective action when a deviation occurs at the critical control point, record keeping system, and manager verification that the system works. The Contractor shall revise the "HACCP Plan" when any changes are made to the master

menu and upon request, provide a copy of the plan to the State. The Contractor shall develop written procedures for record keeping and documentation for all aspects of this food service Contract.

- l. The Contractor shall ensure that all food and beverages are correctly handled to keep them safe from all potential hazards and be responsible for any negligence and/or food spoilage caused by mishandled food or beverage items, such as meal trays, snacks, or catered food. The meal tray delivery carts shall be handled in a HIPAA-compliant manner to the agreed upon drop-off/pick-up area at each nursing unit entrance. Distribution of the trays, snacks, and any extra food and nutrition products shall be a State function and responsibility.
- m. The Contractor shall retrieve approximately one (1) hour after each meal, the meal trays and delivery carts from the agreed upon drop-off/pick-up areas. It is the function and responsibility of the State to retrieve all trays, dishware, and any other food or meal containers or supplies and place in the delivery cart prior to the Contractor pick-up. The Contractor shall clean, rinse, and sanitize all trays and food delivery equipment after use.
- n. The Contractor shall develop and provide to the State a fourteen (14) day emergency menu with a detailed contingency plan for all possible emergencies. The Contractor shall maintain an inventory of non-perishable items that would allow for up to fourteen (14) days of meal service during an emergency. Each non-perishable item should be appropriately labeled with the date of receipt and rotated on a "first-in, first-out" method of stock rotation to prevent the product from being kept beyond its expiration date.
- o. Upon written request by the Facility Representative, the Contractor shall provide facility sponsored catering services or special function meals at an additional cost, as set forth in Payment Methodology Section C.3., Catering Services per Person. These services may include, but are not limited to breakfast, lunch, or snacks for meetings, receptions, and facility special events, such as employee holiday meals and service recipient birthday celebrations. The Contractor shall be responsible for all aspects of this service. See **Attachment 03** for a history of past catering requests.
- p. The Contractor shall provide eight (8) boxed, regular diet, lunch meals daily to the facility's Admission's Office. The Contractor shall be compensated for these boxed meals as set forth in Payment Methodology Section C.3., Catering Services per Person. These boxed meals shall be delivered to the Admission's Office at approximately the same time as the delivery of the breakfast meal trays. The boxed meals shall be labeled with the name of the contents, date of preparation, and date and time when it must be discarded. A refrigerator shall be provided by the State for storage of these boxed meal deliveries.
- q. The Contractor shall maintain an adequate supply of non-disposable and disposable dish and service ware to provide requested catering services as outlined in Section C.3.
- r. The Contractor shall cooperate with the State staff to meet the needs of both the State and its service recipients. Identified problem areas shall be resolved to the satisfaction of the State.
- s. The Contractor shall cooperate with food service Contractor transition at both the beginning and end of the Contract period.
- t. The Contractor shall retain control over its employees and agents at all times. The Contractor shall provide all information required by the State's and/or Facility's Human Resource Department.

- u. The Contractor shall comply with the State's policy regarding the use of nametags. All Contracted personnel shall be required to wear a State-issued nametag at all times while working in the State facility.
- v. The Contractor shall comply with the standards of The Joint Commission and other accrediting or certifying bodies from whom the State may seek credentials or accreditation, such as those standards relate to food and dietetic services and appropriate program standards. The Contractor shall also comply with the Laws and Rules of the Department of Mental Health and Developmental Disabilities and any other rules and regulations that can reasonably be interpreted as being applicable. The Contractor shall also abide by the State's performance improvement, infection control, inspection reports, safety, and customer satisfaction plans. Upon request, the Contractor shall be available to participate in meetings with accrediting, licensing, and/or certifying agencies to address any requests for information as it pertains to the provisions of this food service contract to the State facility.
- w. Upon reasonable notice, the Contractor shall permit the State, or its appointed representatives, access to the Contractor's employees, agents, subcontractors or consultants who perform any work in connection with any services relative to this Contract. The State shall be permitted access at any time to any equipment and locations used by the Contractor in its performance under this Contract to ensure compliance with this Contract or to investigate any complaints reported to the State.

A.3. STATE'S RESPONSIBILITIES

- a. For billing purposes, the State shall forward the daily "Resident Day" Count to the Contractor by 9:00 A.M. each Monday (Tuesday if Monday is a State holiday) for the prior week defined as Saturday through Friday.
- b. For preparation of service recipient meals, snacks, and food and beverage products, the State shall provide by 9:00 A.M. each day a "Dietary Meal Census Sheet" which shall include the following information: date, service recipient's name, identification number or date of birth, unit location, diet order, any food allergies, sensitivities, or intolerances, and any special food preferences or instruction. The State shall develop with the Contractor a policy for handling daily diet changes.
- c. The State shall, in coordination with the Contractor, provide to the Contractor on a timely basis a schedule for delivering service recipient meals, snacks, and special functions.
- d. The State shall review, approve, and recommend any changes to the master menu and conduct quality improvement activities, such as meal monitoring as needed, and keep on file all menus, reports, and documentation that pertains to this Contract. The State shall post a copy of each week's menu on the Nursing Units in a place accessible to the service recipients.
- e. On a regular basis the State shall conduct quality improvement/customer satisfaction surveys and communicate the results with the Contractor to improve their service.
- f. The State shall ensure that the meal trays, snacks, and any other food or beverage items are distributed in a timely manner to comply with food temperature and quality standards and Admission's Office boxed meals are discarded according to the date and time specified on the label.
- g. The State shall provide a refrigerator for storage of the boxed meal deliveries to the facility's Admission's Office.

- h. The State shall retrieve all trays, dishware, and any other food, meal containers, or supplies and place them in the delivery cart and/or agreed upon pick-up area prior to the scheduled Contractor pick-up time.
- i. The State shall regulate the use and occupancy of the premises and provide nametags to each contracted food service employee that is involved with the provisions of this food service contract.

B. CONTRACT TERM:

- B.1. This Contract shall be effective for the period commencing on July 1, 2008 and ending on June 30, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon payment rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Four Hundred ~~Thirty Seven~~ Thousand One Hundred Twenty One Dollars (\$473,121). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
 - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
Cost of Meals per Resident Day (see Section A.2.e.)	\$19.48 per resident per day for the first fifty (50) patients \$12.24 per resident day for additional patients exceeding fifty (50) patients
Catering Services per Person (see Section A.2.o., Section A.2.p., and Attachment 03)	
Admission's Office Boxed Lunch Meal	\$2.50 per person
Hot Meal Plate	\$9.95 per person
Cold Meal Plate	\$8.25 per person
Birthday/Special Occasion Cake	\$1.50 per person
Punch	\$0.90 per person
Danish/Muffin Tray	\$1.50 per person
Cheese/Cracker Tray	\$2.75 per person
Cookie/Brownie Tray	\$1.75 per person
Fruit/Vegetable Tray	\$3.50 per person

- c. The cost for all catering services shall be based on a per person cost and include the cost for providing beverages (except punch), condiments, paper and plastic supplies, and labor.
 - d. The Admission's Office boxed lunch meal shall be prepared according to the regular diet guidelines.
 - e. The hot meal plate shall include a meat, two (2) vegetables, bread, drink, and dessert. For the hot meal plate, the Contractor shall offer a choice of three (3) different menu options at one price point. (Attachment 03)
 - f. The cold meal plate shall include a meat sandwich, vegetables, chips, drink, and dessert. For the cold meal plate, the Contractor shall offer a choice of three (3) different menu options at one price point. (Attachment 03)
 - g. For both hot and cold meal plates, a vegetarian option shall be available.
 - h. Each birthday/special occasion cake shall yield thirty (30) portions.
 - i. Arrangements for all catering services shall be agreed to in writing by both parties prior to preparation.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Memphis Mental Health Institute
951 Court Avenue
Memphis, TN 38102

- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);
- (4) Contract Number (assigned by the State to this Contract);
- (5) Account Name: State of Tennessee, Department of Mental Health and Developmental Disabilities, Memphis Mental Health Institute;
- (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.

- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

- (1) Include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall

neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The Contract may be terminated by either party by giving written notice to the other, at least ninety (90) days before the effective date of termination. Should the State exercise this provision, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Should the Contractor exercise this provision, the State shall have no liability to the Contractor except for those units of service which can be effectively used by the State. The final decision as to what these units of service are shall be determined by the State. In the event of disagreement, the Contractor may file a claim with the Tennessee Claims Commission in order to seek redress.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or

consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at **Attachment 04**, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a Contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a Contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from

the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Linda C. White, Fiscal Director
Memphis Mental Health Institute
951 Court Ave.
Memphis, TN 38103
Linda.White@state.tn.us.
Telephone # (901) 577-1800
FAX # (901) 577-1324

The Contractor:

Ken Rosser, Director of Food Services
Shelby County Healthcare Corp DBA The Regional Medical Center at Memphis
877 Jefferson Ave
Memphis, TN 38103
krosser@the-med.org
Telephone # (901) 545-7753
FAX # (901) 545-6775

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801,

et. seq., the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent Contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

- E.5. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.6. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.7. Rule 2 Compliance. The State and the Contractor shall comply with obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 CFR § 2.1 et seq.

- a. The Contractor warrants to the State that it is familiar with the requirements of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations, and will comply with all applicable requirements in the course of this Contract.
- b. The Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its regulations, in the course of performance of the Contract so that both parties will be in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and that are reasonably necessary to keep the State and the Contractor in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, or if Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.10. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, et. seq., shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

E.11. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust

statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

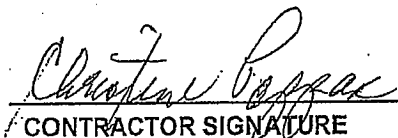
E.12. Drug-Free Workplace. The Contractor agrees that it shall provide a drug-free workplace pursuant to the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F.

E.13. Professional Practice. The Contractor shall assure that there is a code of conduct in place and applicable to all employees that covers, at minimum, business practices, clinical practices, and service recipient/staff interaction/fraternization. Further, Contractor's personnel shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards of their profession. Procedures for reporting violations of the ethical standards shall be developed and communicated to staff upon hire and annually thereafter, which shall include a non-reprisal approach for persons reporting suspected violations, as well as a description of possible sanctions for violating the standards. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct may be cause for termination of this Contract.

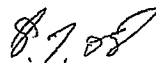
E.14. Additional Subcontracting Requirements. If subcontracts are approved by the State, they shall contain, in addition to those sections identified in D.5., sections on "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

IN WITNESS WHEREOF:

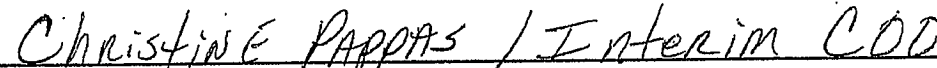
SHELBY COUNTY HEALTHCARE CORPORATION DBA THE REGIONAL MEDICAL CENTER AT
MEMPHIS:



CONTRACTOR SIGNATURE



DATE



PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES:

Virginia J Betts 8-12-08
VIRGINIA TROTTER BETTS, MSN, JD, RN, FAAN, DATE
COMMISSIONER

APPROVED:

M. D. Goetz Jr. 11/6/08
M. D. GOETZ, JR., COMMISSIONER DATE
DEPARTMENT OF FINANCE AND ADMINISTRATION

NOT APPLICABLE

DEBORAH E. STORY, COMMISSIONER DATE
DEPARTMENT OF HUMAN RESOURCES

John G Morgan 11/12/08
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTACHMENT 01

DIET LIST

The majority of the service recipients at MMHI are prescribed a Regular diet upon admission to the facility. Other medically prescribed diets include the following:

- Calorie Controlled
- Carbohydrate Controlled/Diabetic
- Double Portions
- High Calorie/High Protein
- High Fiber
- Low Fat, Low Cholesterol
- Low Sodium or 2 gram Sodium
- Modified Consistency (Diced/Chopped, Ground, Pureed, Liquid, Thickened Liquids)
- No Added Salt or 4 gram Sodium
- Renal

ATTACHMENT 02

FACILITY DESCRIPTION AND CENSUS STATISTICS

Memphis Mental Health Institute is a licensed, seventy-five (75) bed facility located at 951 Court Ave., Memphis, Tennessee. The facility is comprised of three (3) nursing units serving both acute and forensic service recipients:

Unit 1 Acute Care	- 25 Beds
Unit 2 Acute Care	- 25 Beds
Unit 3 Acute Care	- 25 Beds

The census for the last two (2) fiscal years ranged from a low of forty-nine (49) to a high of seventy eight (78) service recipients. The average number of service recipients for the last two (2) fiscal years was sixty-four (64). This census level is expected to remain relatively stable throughout the Contract period.

ATTACHMENT 03

CATERING HISTORY

Historically, staff and guest catering/special function meals/services accounted for approximately one (1) percent of the total cost of contract services. Catered meals account for approximately fifty-four (54) percent of the total number of requests while cakes account for forty-six (46) percent of the total number of requests.

The following types of catering services have been provided to the staff, service recipients, and guests at MMHI in the past:

- Cakes and Punch- Birthday, Holiday, Special Occasion
- Hot and Cold Catered Meals- Holiday, Meeting, Special Occasion
- Admission's Office Boxed Lunch Meals
- Breakfast Danish Trays
- Cheese and Cracker Trays
- Cookie and Brownie Trays
- Fruit and Vegetable Trays

Catering Hot Menus - three (3) selections:

- Tossed Green Salad with Dressings
- Meat, or 3-Cheese (Vegetarian) Lasagna
- Garlic Bread
- Fresh Vegetable (2)
- Choice of Dessert
- Coffee, Tea, Ice Tea, Sodas, Water

- Southern Style BBQ Pork Shoulder
- Hamburger Buns
- Baked Beans
- Cole Slaw
- Corn on Cob
- Choice of Dessert
- Coffee, Tea, Ice Tea, Sodas, Water

Tossed Green Salad
Southern Fried Chicken
Mashed Potatoes w/Gravy
Fresh Vegetable (2)
Apple or Peach Cobbler
Coffee, Tea, Ice Tea, Sodas, Water

Catering Cold Menus – three (3) selections:

Ham, Turkey or Roast Beef on Croissant
Rotelli Pasta Salad
Sliced Fresh Fruit Platter
Assorted Cookies
Coffee, Tea, Ice Tea, Sodas, Water

Assorted Cold Cut Platter with Meats & Cheeses
Chicken Salad/Tuna Salad
Potato Salad
Assorted Breads & Rolls
Assorted Cookies
Coffee, Tea, Ice Tea, Sodas, Water

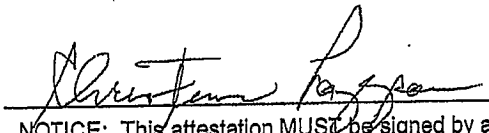
Chef or Chicken Caesar Salads
Sliced Fresh Fruit Platter
Dinner Roll
Choice of Dessert
Coffee, Tea, Ice Tea, Sodas, Water

ATTACHMENT 04

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Shelby County Healthcare Corp. DBA Regional Medical Center at Memphis
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	V 62-1113169-07

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE & DATE:  8.7.08

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.